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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,081	07/31/2001	Richard Alan Dayan	RPS9 2001 0021	2469

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KELLY K. KORDZIK
WINSTEAD SECHREST & MINICK PC
PO BOX 50784
DALLAS, TX 75201

EXAMINER

NGUYEN, MINH DIEU T

ART UNIT PAPER NUMBER

2137

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/919,081		DAYAN ET AL.	
	Examiner		Art Unit	
	Minh Dieu Nguyen		2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-49 are pending.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Fig. 2, computer system 200; EEPROM 102; hidden partition 201; external communication link 202. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-8, 12-14, 16-21, 25-26, 28-33, 37-38, 40-45 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6,003,130) in view of Maeda (6,651,150).

a) As to claims 1, 13, 25 and 38, Anderson discloses a system for selecting, detecting and/or reprogramming system BIOS in a computer system comprising the steps of executing recovery code stored in a nonvolatile memory in response to a recover BIOS command (col. 3, lines 2-13); rewriting a first BIOS image (Fig. 2, element 80) in the nonvolatile memory with a second BIOS image in a protected portion of a nonvolatile storage unit in response to the recovery code (col. 5, lines 13-17); and updating the system using the rewritten second BIOS image in the nonvolatile memory.

Anderson discloses several different BIOS programs may be contained in the memory device (col. 3, lines 39-41) however he does not explicitly disclose the second BIOS image stored in a protected portion of a nonvolatile storage unit.

Maeda discloses a method of controlling the rewriting of the nonvolatile storage device comprising rewriting a first BIOS image (Fig. 1, element 18) in the nonvolatile memory with a second BIOS image (col. 4, lines 47-52) in a protected portion of a nonvolatile storage unit (Fig. 7, element 161) and updating the system using the rewritten second BIOS image in the nonvolatile memory (col. 6, lines 11-14).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of having second BIOS image in a protected portion of a

nonvolatile storage unit in the system of Anderson, as Maeda teaches so as to provide high security level for information in the protected area.

b) As to claims 3-4, 14, 16-17, 26, 28-29 and 40-41, Maeda discloses the recover BIOS command is generated in response to a recover BIOS request received by the computer system over a communication link and the recover BIOS request is part of a secure data packet received by the computer system via the communication link (col. 4, lines 47-50).

c) As to claims 5, 18, 30 and 42, Maeda discloses the secure data packet has data which must first be authenticated by the recovery code before the first BIOS is rewritten with the second BIOS image (col. 5, lines 40-42).

d) As to claims 6, 19, 31, and 43, Anderson discloses the nonvolatile memory is an electronically erasable programmable read only memory (col. 4, lines 18-20).

e) As to claims 7, 20, 32 and 44, Maeda discloses the communication link comprises a LAN and a WAN (Fig. 1, element 17).

f) As to claims 8, 21, 33 and 45, Maeda discloses the nonvolatile storage unit is an IDE disc drive (col. 4, lines 38-40).

g) As to claims 12, 37 and 49, Maeda discloses the second BIOS image is written onto the protected partition of the nonvolatile storage unit under control of an operating system executing an update BIOS image program on the system (col. 1, lines 41-47; col. 3, lines 27-29)

5. Claims 2, 10, 15, 22-23, 27, 34-35, 39 and 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6,003,130) in view of Maeda (6,651,150) and further in view of Chaiken et al. (6,757,838).

a) As to claims 2, 15, 27 and 39, Anderson and Maeda do not disclose the first BIOS image is rewritten with the second BIOS image if the first BIOS image is determined to be corrupted.

Chaiken discloses first BIOS image is rewritten with the second BIOS image if the first BIOS image is determined to be corrupted (col. 10, lines 10-24).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of rewriting the first BIOS with the second BIOS image if the first BIOS image is determined to be corrupted in the system of Anderson and Maeda, as Chaiken teaches to correctly updating BIOS in computer system.

b) As to claims 9, 22, 34 and 46, Anderson and Maeda do not disclose the second BIOS image was written onto the protected partition of the nonvolatile storage unit at the time of manufacture.

Chaiken discloses the second BIOS image was written onto the protected partition of the nonvolatile storage unit at the time of manufacture (col. 7, lines 25-29).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of writing the second BIOS image onto the protected partition of the nonvolatile storage unit at the time of manufacture in the system of Anderson and Maeda, as Chaiken teaches to enhance security level in BIOS data.

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c) As to claims 10, 23, 35 and 47, Maeda discloses the second BIOS image downloaded from a web server (col. 4, lines 47-50) i.e. information received in the secure data packet.

However, Anderson and Maeda do not disclose the first BIOS image is determined to be corrupted by comparing a signature of the first BIOS to a signature received in the secure data packet.

Chaiken discloses first BIOS image is rewritten with the second BIOS image if the first BIOS image is determined to be corrupted (as in claim 2). Chaiken further discloses the first and second BIOS can be validated with checksum, CRC, digital signatures (col. 8, lines 39-43).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of comparing a signature of the first BIOS to a signature received in the secure data packet to determine if the first BIOS is corrupted in the system of Anderson and Maeda, as Chaiken teaches to enhance security level in BIOS data.

6. Claims 11, 24, 36 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6,003,130) in view of Maeda (6,651,150) and further in view of Miyamoto et al. (6,438,640).

Anderson and Maeda do not disclose the secure data packet is a wake on LAN packet.

Miyamoto discloses a wakeup function that allows the computer system to return from a stop or sleep state to an operative state in response to a specific packet received i.e. flash BIOS ROM (Fig. 2) from a network, and a wakeup function control method (col. 1, lines 8-13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the use of implementing wake on LAN packet in the system of Anderson and Maeda, as Miyamoto teaches so as to reduce PC maintenance/management cost (col. 1, lines 47-49).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Dieu Nguyen whose telephone number is 571-272-3873. The examiner can normally be reached on M-F 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.



ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER

Minh Dieu Nguyen
Examiner
Art Unit 2137